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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,170	09/03/2003	Lonnie F. Gary	35036 00007	4327
20873	7590	04/07/2006	EXAMINER	
LOCKE LIDDELL & SAPP LLP ATTN: SUE COTT 2200 ROSS AVENUE SUITE 2200 DALLAS, TX 75201-6776			TRUONG, BAO Q	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/654,170

Applicant(s)

GARY ET AL.

Examiner

Bao Q. Truong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 13-25 and 38-43 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 26-37 and 44-48 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/03/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species II including FIGS. 4-8 as indicated by examiner and claims 1, 2, 4-12, 26-37 and 44-48 readable thereon in the reply filed on 3/03/2006 is acknowledged. The traversal is on the ground(s) that the applicant suggests FIGS. 1-4 depict one embodiment, FIG. 4 depicts another embodiment, and FIGS. 9-12 depict a third embodiment. Each embodiment is erectable using the automatically erectable support structure of FIGS. 5-8. This is found persuasive. Therefore, the embodiment of FIGS. 4 and the automatically erectable support structure of FIGS. 5-8 including claims 1, 2, 4, 5, 7-12, 26-37 and 44-48 are consideration.

Claim Objections

2. Claim 46 is objected to because of the following informalities: claim number is incorrect.

Appropriate correction is required.

Allowable Subject Matter

3. Claims 1-12, 26-37 and 44-48 (two claims number 46) are allowed.

4. The following is an examiner's statement of reasons for allowance:

Claims 1 and 26, an artificial tree comprises, in combination, a plurality of curvilinear elements of graduated diameter supported from a top of a telescoping center

pole by a plurality of circumferentially spaced tethers, and a plurality of circumferentially spaced branched pivotally connected to the curvilinear elements and extending radially therefrom.

Claims 2-12 (including claims 3 and 6, which are non-elected) and 27-37 are dependent on claims 1 and 26, respectively.

Claim 44, an automatically erectable support structure comprises, in combination, a vertical shaft having a threaded upper portion cooperatively engaged with a tubular member to elevate the tubular member relative to a first tubular member when the vertical shaft is rotated in a first rotational direction, and to lower the tubular member relative to the first tubular member when the vertical shaft is rotated in a second rotational direction.

Claims 45-48 (two claims number 46) are dependent on claim 44.

The limitations discussed above are neither disclosed nor suggested by the prior art of record.

G.J.W. Genhl, Jr. [US 3,674,612] discloses a folding Christmas tree having a plurality of curvilinear elements [16] of graduated diameter supported from a top [11] of a telescoping center pole [10] by a plurality of circumferentially spaced tethers [20] (figures 1-4); but G.J.W. Genhl, Jr. does not disclose or suggest the a plurality of circumferentially spaced branched pivotally connected to the curvilinear elements and extending radially therefrom.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. This application is in condition for allowance except for the following formal matters:

Claim objections as set forth above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (571) 272-2383. The examiner can normally be reached on Monday-Friday (8:00 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bao Q. Truong
Examiner
Art Unit 2875


ALI ALAVI
PRIMARY EXAMINER